

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2006/033967

International filing date (day/month/year)
31.08.2006

Priority date (day/month/year)
02.09.2005

International Patent Classification (IPC) or both national classification and IPC
INV. H04N7/10 H04N5/00

Applicant
SCIENTIFIC-ATLANTA, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - Gitschiner Str. 103
D-10958 Berlin
Tel. +49 30 25901 - 0
Fax: +49 30 25901 - 840

Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Bertrand, Frédéric

Telephone No. +49 30 25901-406



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - ☒ the international application in the language in which it was filed
 - ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1 (b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ on paper
 - ☐ in electronic form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in electronic form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. ☒ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|------------|
| Novelty (N) | Yes: Claims | 4-13,16-20 |
| | No: Claims | 1-3,14-15 |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | 1-20 |
| Industrial applicability (IA) | Yes: Claims | 1-20 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

and / or

2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Re Item V.

1 Reference is made to the following documents:

- D2 : US 2004/064714 A1 (CARR JEFFREY DOUGLAS [US]) 1 April 2004 (2004-04-01)
- D3 : US 2002/146237 A1 (SAFADI REEM [US]) 10 October 2002 (2002-10-10)
- D4 : WO 01/74003 A (SONY ELECTRONICS INC [US]) 4 October 2001 (2001-10-04)
- D5 : US 2005/005287 A1 (CLAUSSEN PAUL J [US]) 6 January 2005 (2005-01-06)
- D8 : SCTE: "POD Copy Protection System" SCTE SOCIETY OF CABLE TELECOMMUNICATIONS ENGINEERS, [Online] 31 December 2004 (2004-12-31), pages 1-68, XP002414048 Retrieved from the Internet:
URL:http://www.scte.org/documents/pdf/ANSI_SCTE412004.pdf>; [retrieved on 2006-01-08]

2 NOVELTY

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1** is not new in the sense of Article 33(2) PCT.

2.1.1 Document **D4** disclose: a home network system where each device is capable of decrypting either direct broadcast with conditional access, or content with copy protection retrieved in the storage of another device of the home network (see passages cited in the search report).

2.1.2 POD is the normalized implementation choice for conditional access module in a receiver or a display in the United States so that it cannot be considered as a differential feature to restore novelty. Therefore the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

2.2 The same applies mutatis mutandis for the other independent **claim 14**.

2.3 The additional features of dependent **claims 2, 3 and 15** are implementation choices

known in the art, and the subject matter of those claims is also not novel.

2.1.5 However the SIM and the frequency modulation techniques into the home network of the present application are specific to the Scientific Atlanta system, and the subject matter of **claims 4-13 and 16-20** is therefore novel against D3.

2.2 The same applies on the basis of documents **D2 or D3**.

3. INVENTIVE STEP

3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1** does not involve an inventive step in the sense of Article 33(3) PCT.

3.1.1 Document **D5**, which is considered to be the most relevant state of the art discloses a precedent home network system of the applicant with home devices having storage capabilities, SIM for distribution and isolation, and request mechanisms between devices. Two encryption techniques coexist.

3.1.2 The difference between the system of D5 and the present application is that there is no reference to a POD in the D5 document.

3.1.3 The problem to be solved by the present invention may therefore be regarded as how to implement the two encryption techniques for each device.

3.1.4 In view of **D8** the solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

D8 discloses a specification of a POD module having not only conditional access capabilities, but also copy protection capabilities, thus dealing with two encryption techniques into the same module. This specification and AMS Cablecards were known prior to filing of the present application.

3.1.5 Therefore the features disclosed in **D5 and D8 would be combined** by the skilled person, without exercise of any inventive skills in order to solve the problem posed. The

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proposed solution in independent claim 1 thus cannot be considered inventive (Article 33(3) PCT).

3.2 The same applies to the other independent system **claim 14**.

3.3. D5 being a preceding patent document of the applicant of the same system, it discloses all the specific features of the home network which for the additional features of the dependent **claims 2 to 13 and 15 to 20**. Dependent claims 2-13, 15-20 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

F.Bertrand